REMARKS/ARGUMENTS

Claims 1-15 are presently pending in the application as originally filed.

In this amendment, Claims 2, 4, 5, 6, 10, and 11 have been amended.

Claim 1 has been canceled without prejudice to filing a continuation with respect thereto.

Claim 16 has been added.

Claims 3, 7-9, and 12-15 remain unchanged.

As set forth below, the Claims as set forth above are believed to be in condition for allowance. Reconsideration of the Application and issuance of a Notice of Allowability are respectfully requested.

Amendments to the Specification

The Specification has been amended, as noted above, to make grammatical corrections to paragraphs [0012] and [0019] of the application. Paragraph [0007] has been amended to identify the "identification code" as a "unit identification code". That the identification code identifies a specific remote unit is apparent from the application. These changes do not add new matter to the application.

Rejections under 35 U.S.C. §102

The Examiner rejected Claims 1-4, 11, 13 and 14 under 35 U.S.C. §102 as being anticipated by Neoh (US 6728585). To anticipate a claim, the reference must teach each and every element set forth in the rejected claim. MPEP §706.02.

Neoh (as shown below) discloses a personal on-demand entertainment device which comprises a wireless headset (14), a remote control unit (18) and a personal computer (20) having a base unit or transmitter (22).

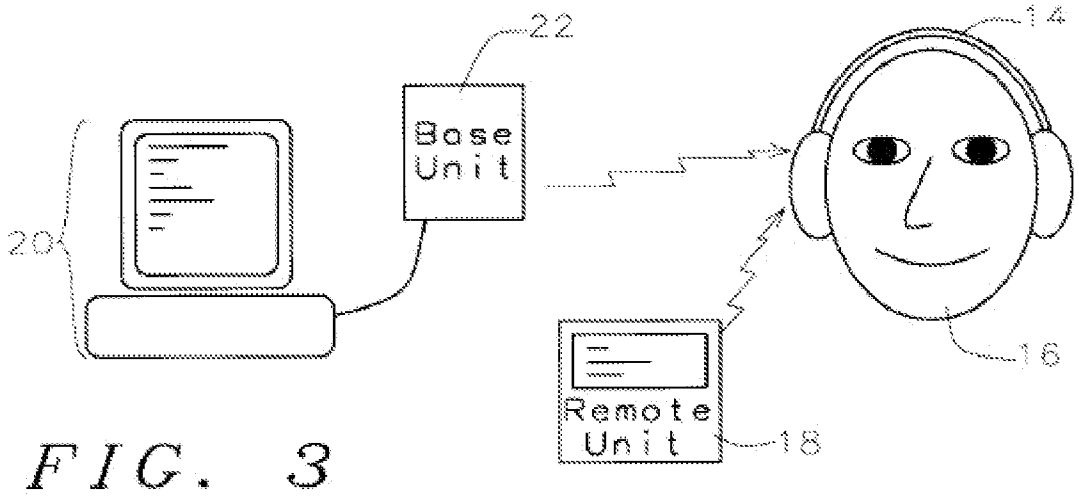

FIG. 3

Neoh discloses that content can be stored in the headset and that the remote unit 18 has controls to cause the headphones to play the content. Neoh, which has a very sparse disclosure, does not disclose if only one song can be stored in the headset storage device or if more than one song can be stored in the headset storage device.

In its basic form, Applicants' sound generator comprises a base unit and a remote unit. The remote unit includes, among other elements, a sound selector and a transmitter. The base unit includes, among other elements, a memory which stores a plurality of sounds, a receiver which receives signals from the remote unit to play selected sounds, and a speaker through which the selected sound is broadcast. The remote unit can thus

be operated to control the base unit to have the base unit play a selected sound through the speaker in the base unit.

Claim 1:

Claim 1 has been canceled without prejudice to filing a continuation with respect thereto.

Claim 2:

Claim 2 originally depended from Claim 1. Claim 2, however, has been amended to be placed in independent form by incorporating the subject matter of Claim 1. Claims 3-10 have been amended, as necessary, to depend from Claim 2. Claim 2 provides that the sound selector of the remote unit "comprises a plurality of buttons" and that "each button corresponds to a different sound". Neoh, as noted by the Examiner, provides that the remote control unit (18) has controls (26) which may be used for "on/off selection, song selection, fast forward, reverse, skip and track repeat." (Neoh, Col. 3, lines 4-6) Initially, Applicants note that there is no drawing which shows the controls 26 nor is there any description as to what the controls comprise. Hence, Applicant respectfully asserts that Neoh does not teach or suggest the use of sound selector comprised of a plurality of buttons wherein each button corresponds to a different sound, as set forth in Claim 2. Hence, Neoh does not anticipate Claim 2.

Further, Neoh does not teach or suggest that there be a plurality of buttons, wherein each button corresponds to a different sound, as set forth in Claim 2, to allow the

user to select a desired sound by pressing a selected button. For at least this reason, Neoh does not make obvious the claimed subject matter of Claim 2. Hence, Claim 2 is believed to be allowable over Neoh.

Claims 3-10 all depend from Claim 2 and are similarly believed to be allowable over Neoh.

Claim 3:

Claim 3 provides that "a circuit of said remote control unit is normally opened" and that the circuit is "closed when one of said sound selector buttons is pressed to transmit said signal." While Neoh does disclose that the remote control unit 18 includes an on/off switch, Neoh does not disclose that the circuit is normally opened, and that it is closed by pressing one of the sound selector buttons. First, Neoh does not disclose or suggest the use of any means for selecting sounds, let alone sound selector buttons as is set forth in Claim 3. Neoh only discloses that the remote unit can be used to activate the headphones to play a song stored in the headphones. Further, by providing for an on/off switch, Neoh implicitly teaches the use of a normally closed, rather than a normally opened, circuit. If Neoh did have a sound selector button that was part of a normally opened circuit, as set forth in Claim 3, Neoh would not need to use the on/off switch. Hence, Neoh does not disclose a circuit which is normally opened and which is closed by pressing a selected sound selector button, as set forth in Claim 3. For at least these reasons, Neoh does not anticipate Claim 3.

Because Neoh does not teach or even suggest that the circuit in the remote control unit is a normally opened circuit, Neoh does not anticipate Claim 3. Further, because Neoh includes an "on/off" switch, Neoh teaches away from a normally opened circuit which is closed by pressing one of the sound selector buttons. As noted above, if Neoh did have a normally opened circuit which was closed when a sound selector button was activated, there would be no need for the On/Off switch on the remote control unit. Hence Neoh does not make Claim 3 obvious. For at least these additional reasons, Claim 3 is believed to be allowable over Neoh independently of Claim 2.

Claim 4

Claim 4 provides that the "signal includes a unit identifying code" and that "the sound generator [includes] a switch for altering the unit identifying code." Claim 4 further provides that the base unit stores the unit identification code, and that the base unit compares the unit identification code sent with the signal with the stored code and plays the requested sound only if the two codes match. As discussed in the application, this unit identifying code is used by the base unit so react to signals from an identified remote control unit as set forth in the specification at paragraph [0007] of the specification. Neoh does not address the problem solved by the subject matter of Claim 4 – namely, how to distinguish "sets" of remote and base units when one remote unit is in close proximity to more than one base unit. Thus, Neoh does not teach or even suggest the use of an identification code as set forth in Claim 4. Hence, Claim 4 is not anticipated by Neoh.

Further, because Neoh does not even suggest the use of such an identification code in the signal, Neoh does not make obvious the subject matter of Claim 4.

For at least these additional reasons, Claim 4 is believed to be allowable over Neoh independently of Claim 2.

Claim 11

Claim 11 is an independent claim, which provides for a remotely operated sound generator comprising (1) a base unit comprising a memory for storing a plurality of sounds, a speaker, an activation signal receiver, and a sound input; (2) a remote control unit comprising an activation signal emitter and a sound selector; and (3) a record switch on one of said base unit and remote unit. As set forth in Claim 11, the record switch is "operable to selectively switch said base unit between a play back mode in which said base unit broadcasts a sound chosen with said sound selector upon receiving an activation signal from said remote control unit, and a record mode in which said base unit records a sound received through said sound input in a memory chosen with said remote control unit sound selector."

Neoh does not teach or suggest such a record switch. Neoh does disclose that the headset can receive and store content and that that headset can play back the stored content. However, Neoh does not teach or suggest that there is a switch which is operable to selectively switch the headset between a record mode and a play back mode.

In support of his assertion that Neoh discloses a record switch, the Examiner cites to Neoh, Col. 3, lines 12-16. At Col. 3, lines 12-16, Neoh states:

> "In addition, the headphone unit 14 has a control receiver 40 for accepting and processing commands from the remote control unit 18 and a control circuit 42 to intercept control signals providing control of playback."

This section of Neoh does not disclose a record switch. This passage merely provides that the headphone unit includes a control receiver which accepts and processes commands from the control unit. The passage does not disclose what types of commands are accepted or how it processes those commands. In fact, nowhere in the patent does Neoh discuss the ability to switch the headphone between a playback mode and a record mode. For at least this reason, Neoh does not anticipate Claim 11. Should the Examiner still assert that Neoh does disclose a record switch as set forth in Claim 11, Applicants request that the Examiner specifically identify the record switch.

Applicants note that the sparse disclosure of Neoh does not disclose how content is stored in the headset. Further, Neoh discloses that the headset can record and play back at the same time. (Neoh, Col. 3, lines 46-49, and Claims 3 and 15). To allow for simultaneous uploading of content to the headset and playing of content through the headset, the Neoh device includes multiple transmitters and receivers. Because the Neoh headset can upload content and play back content at the same time, there is no need for a record switch to switch the headset between a record mode and a playback mode. In view of the fact that Neoh does not disclose the use of a record switch as set forth in Claim 11

which switches the headset between a record mode and a playback mode, Neoh does not anticipate Claim 11. Further, in view of the fact that the Neoh headset can upload content and playback content at the same time teaches away from the use of a record switch as set forth in Claim 11. Thus, Neoh does not make Claim 11 obvious. In view of the forgoing, Claim 11 is believed to be allowable over Neoh.

Rejections under 35 U.S.C. §103

Claim 5

The Examiner rejected Claim 5 under 35 U.S.C. §103 as being obvious over Neoh in view of Gulliford (US 5384776). Claim 5 depends from Claim 2 via Claim 4 and provides that the switch for altering the unit identifying code comprises "one or more DIP switches in one or both of said remote control unit and said base unit." As discussed above, Neoh does not teach or suggest the use of an identification code which will prevent the base unit from being activated by a remote unit not associated with the base unit. Gulliford discloses an audio routing system and, in particular, a digitally trunked switching network for multiple site RF communication systems. (Col. 1, lines 45-47). While Gulliford does disclose the use of DIP switches as noted by the Examiner, Applicants respectfully submit that Gulliford does not disclose the use of DIP switches to set, change, or store unit identification codes, as is set forth in Claim 5. Further, the disclosure of Gulliford does not provide the elements of Claims 2 or 4 noted above which are missing from Neoh. Hence, neither Gulliford nor Neoh, whether considered individually or in combination, teach or

suggest all the elements of Claim 5 (or Claims 1 or 4 from which Claim 5 depends). Thus, Claim 5 is believed to be allowable over the references of record.

Claim 6

The Examiner asserted that:

> "re Claim 6, the combined teaching of Neoh and Gulliford et al disclose the remotely operated sound generator of claim 1 including a record switch to selectively switch said base unit between a play back mode and a record mode (Neoh, col. 3, lines 12-16) and an input for receiving new sounds (Neoh, col. 3, lines 20-23), whereby, when said base unit is in its recording mode (Neoh, downloading) mode (Neoh, col. 3, lines 20-23), a sound received through said input is stored at a selected location in said base unit (Neoh, col. 3, lines 20-23).

Applicants note that the Examiner appears to reject the Claim 6 over Neoh in view of Gulliford. However, as seen from the quoted excerpt of the office action, the Examiner refers only to Neoh in his rejection of Claim 6. The MPEP at §706.02(j) provides that "the initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done;" and that "It is important for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply." Applicant respectfully asserts that without an explanation as to how Gulliford is applied in the rejection of Claim 6, the Examiner has failed to make a *prima facie* showing of obviousness based on Neoh in view of Gulliford. The Examiner is thus requested to withdraw this rejection or enter a new non-final office action in which the Examiner explains his reliance on Gulliford.

As best understood from the excerpt of office action set forth above, Claim 6 has been rejected as being obvious over Neoh. Claim 6 depends from Claim 2 and provides that the sound generator of Claim 1 includes "a record switch to selectively switch said base unit between a play back mode and a record mode and an input for receiving new sounds, whereby, when said base unit is in its recording mode, a sound received through said input is stored at a selected location in said base unit." As discussed above in conjunction with Claim 11, Neoh does not teach or suggest the use of a record switch to switch the headset between a record mode and a playback mode. In fact, because Neoh provides that the headset can record and playback at the same time, Neoh teaches away from the use of a record switch.

Further, Applicant respectfully asserts that Gulliford does not teach or suggest a switch which will allow the Gulliford device to be switched between a playback mode and a record mode.

Gulliford and Neoh, even when combined, fail to teach or suggest all the elements of Claim 6. Hence, Claim 6 is not made obvious by Neoh or Gulliford, whether considered individually or in combination. Claim 6 is thus believed to be allowable over Neoh and Gulliford. Claims 7-9 depend from Claim 6 and are allowable over Neoh and Gulliford for at least the same reasons.

Claim 7

Claim 7 depends from Claim 6 and provides that the "record switch is located on said base unit." As with Claim 6, while the Examiner appears to assert that the Claim is obvious over Neoh and Gulliford, the Examiner refers only to Neoh in his explanation. The Examiner did not assert which elements of Claim 7 are missing from Neoh and which elements are asserted to be taught by Gulliford. The Examiner merely stated that "the combined teaching of Neoh and Gulliford disclose the remotely operated sound generator of claim 6 wherein said record switch is located on said base unit (col. 3, lines 12-16)." As discussed above in conjunction with Claim 6, the bald assertion that a claim is obvious without an explanation as to why or how it is obvious violates the requirements of MPEP §706.02. Applicants thus assert that the Examiner has failed to make a prima facie case of obviousness. Applicants therefore that the Examiner either withdraw the rejection of Claim 7 or enter a new non-final action explaining how Gulliford is applied to Claim 7.

Even if the Examiner refuses to withdraw the rejection of Claim 7, Applicants note that Claim 7 depends from Claim 6. As noted above, neither Neoh nor Gulliford, whether considered individually or in combination, teach the subject matter of Claim 6. Hence, Neoh and Gulliford, whether considered individually or in combination, do not teach the subject matter of Claim 7. Claim 7 is thus believed to be allowable over both Neoh and Gulliford.

Claims 8 and 9

The Examiner rejected Claim 8 as being unpatentable over Neoh and Gulliford as applied to Claim 6 and further in view of Bauer (US 5832438). Claim 8 depends from Claim 6 and provides that the sound input comprises a microphone. Claim 9 depends from Claim 8 and provides that that the "input comprises a line in-jack" and that the "line-in jack [is] adapted to removably connect said base unit to an external microphone or a device capable of playing sounds."

Initially, in view of the fact that the Examiner failed to explain how Gulliford was applied in the rejection of Claim 6, Applicants respectfully submit that the Examiner has failed to comply with the requirements of MPEP §706.02, and hence that the Examiner has failed to make a prima facie case of obviousness as to Claims 8 or 9. The Examiner is thus requested to either withdraw the rejection of Claim 8 and 9 or enter a new non-final rejection of Claims 8 and 9 explaining how Gulliford is applied to the claims.

As noted by the Examiner, Bauer discloses a computer having a mike-in or line-in jack. However, even the combination of the three references fails to teach all the elements of Claims 8-9 or of Claim 6 from which Claims 8 and 9 depend. In particular, none of the references teach or suggest the switch of claim 6 which will "selectively switch said base unit between a play back mode and a record mode and an input for receiving new sounds, whereby, when said base unit is in its recording mode, a sound received through said input is stored at a selected location in said base unit." As noted above, Neoh teaches

away from the use of the switch. Further, neither Gulliford nor Bauer teach or suggest such a switch. Hence, Claims 8-9 are believed to be allowable over the references of record.

Claim 10

Claim 10 originally depended directly from Claim 1. As now amended, Claim 10 depends directly from Claim 2. Claim 10 provides that the "base unit comprises a line-out jack to removably connect said base unit to a recording device to record the sounds stored in said base unit memory." The Examiner has asserted that "the combined teaching of Neoh, Gulliford et al and Bauer disclose the remotely operated sound generator of claim 1 wherein said base unit comprises a line-out jack to removably connect said base unit to a recording device to record the sounds stored in said base unit memory (Bauer, abstract & col. 1, lines 35-38). However, the Examiner rejected Claim 1 (and Claim 2) as being anticipated by Neoh. The Examiner has not explained how Gulliford or Bauer are to be applied with respect to either Claim 1 or Claim 2. Hence, at best, the Examiner's rejection of Claim 10 over Neoh, Gulliford and Bauer is vague and does not comply with the requirements of MPEP §706.02. Applicants therefor request that the Examiner either withdraw the rejection of Claim 10 or enter a new non-final rejection of Claim 10 in which the application of all three references to Claims 2 and 10 is explained.

Should the Examiner refuse to withdraw the rejection of Claim 10, Applicant notes that Claim 10 is believed to be allowable over the references in view of its dependency

from Claim 2. None of Neoh, Gulliford or Bauer teach or disclose all the elements of Claim 2. Hence, they do not teach all the elements of Claim 10. Claim 10 is therefor believed to be in condition for allowance.

Claims 12 and 15

Applicants traverse the Examiner's rejection of Claims 12 and 15 for the same reasons set fort above in conjunction with Claim 11 and Claims 8-10.

New Claim

New Claim 16 has been added. New Claim 16 depends from Claim 2 via Claim 6 and essentially provides that only a subset of the sounds can be recorded over. That is, certain of the sounds are pre-recorded and fixed, and certain of the other memory locations contain store sounds which can be recorded over. This is not taught or suggested by any of the references of record. Hence, Claim 16 is believed to be allowable for this reason in addition to its dependence from Claims 2 and 6.

Conclusion

None of the references, whether considered individually or in combination, teach or suggest the invention of independent Claims 2 or 11. With respect to Claim 2, none teach or suggest a remotely operated sound generator having a base unit on which a plurality of sounds are stored and a remote unit having a sound selector to cause a desired one of the plurality of sounds to be played by the base unit. With respect to Claim 11, none of the references teach or suggest a remotely operated sound generator having a base unit on

which a plurality of sounds are stored and a remote unit which is operable to cause a desired one of the sounds to be played and wherein there is a record switch on either the base unit or the remote unit which is operable to selectively switch the base unit between a play mode and a record mode as set forth in the last paragraph of Claim 11.

In view of the foregoing, Claims 2-16 are believed to be in condition for allowance. A Notice of Allowability with respect to these claims is thus respectfully requested.

You are hereby authorized to charge payment of an extension fee associated with this communication or credit any overpayment to Deposit Account No. 162201.

Respectfully Submitted,

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